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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

AUG 18 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Price Cap Performance Review)
for Local Exchange Carriers)

CC Docket No. 94-1

Access Charge Reform)

CC Docket No. 96-262

OPPOSITION OF SPRINT CORPORATION

I. INTRODUCTION

On May 21, 1997, the Commission issued its Price Cap Order.¹ On July 11, 1997, four parties filed petitions for reconsideration of the Price Cap Order: AT&T Corp. ("AT&T"); the Ad Hoc Telecommunications Users Committee ("Ad Hoc"); Citizens Utilities Company ("Citizens") and Cincinnati Bell Telephone Company ("CBT"). Sprint Corporation ("Sprint"), on behalf of the United and Central Telephone Companies (the "Sprint LECs") and Sprint Communications Company, L.P., hereby respectfully submits its Opposition to the petitions set forth above.

Sprint will limit its comments to two issues: the use of a total company versus interstate productivity factor and the retroactive application of the Commission's findings for 1995. Sprint supports the Commission's Price Cap Order in its determination of these issues and submits that there is no evidence presented in this record to sustain a different conclusion. Moreover, given the current transition to a competitive environment ongoing in the telecommunications industry, the Commission's conclusions in these respects are reasonable and should be maintained.

¹ Price Cap Performance Review For Local Exchange Carriers and Access Charge Reform, Fourth Report and Order in CC Docket 94-1 and Second Report and Order in CC Docket No. 96-262, CC Docket Nos 94-1 and 96-292, FCC 97-159; adopted May 7, 1997; released May 21, 1997 (hereinafter "Price Cap Order").

II. TOTAL COMPANY PRODUCTIVITY GROWTH DATA

AT&T argues that in the Price Cap Order the Commission erroneously relied on total company data rather than interstate only data as the basis for measuring the LECs' productivity.² AT&T suggests that the Commission failed to address the issue of whether an adjustment should be applied to estimates of LECs' total company productivity growth to account for the perceived greater productivity growth present on an interstate-only basis. AT&T argues that the Commission erroneously ignored AT&T's record evidence in this proceeding that demonstrated that demand for interstate access services grew at 6.8%, whereas local and intrastate services growth was 4.2%.³ AT&T also suggests that the Commission failed to address the evidence from Ad Hoc's consultant that showed DEM growing at 3.7%, whereas interstate switched access minutes grew at 10%.⁴

Ad Hoc takes a similar position. Ad Hoc argues that the Commission erred in excluding the Ad Hoc's productivity study from the evidence considered in this proceeding.⁵ In support of its position, Ad Hoc submits evidence to demonstrate the reliability of that study which supports an increase in the productivity factor to account for interstate productivity growth, as compared to total company productivity. Ad Hoc's study was consistent with the AT&T study to the effect it

² Petition of AT&T Corp. For Partial Reconsideration of the Commission's X-Factor Order, July 11, 1997. ("AT&T's Petition")

³ AT&T's Petition at 5.

⁴ Id.

⁵ Petition for Reconsideration On Behalf of the Ad Hoc Telecommunications Users Committee, July 11, 1997. ("Ad Hoc Petition")

supports the premise that total company data should not be used to determine the productivity factor.

Contrary to AT&T's assertions, however, the Commission did address the evidence of record on this issue and found it lacking. The Commission made a specific finding that no party had provided any factual or theoretical basis that could be used to properly calculate an interstate-only productivity factor.⁶ Sprint has previously addressed these issues.⁷ The evidence submitted in this proceeding clearly does not support the contention that there is a substantial and permanent output growth differential between interstate and intrastate services, and certainly not in the magnitude suggested by AT&T and Ad Hoc. The Commission correctly concluded that the record in this proceeding does not allow it to quantify the extent that interstate productivity growth may differ from total company productivity growth.

Of greater significance in evaluating the productivity studies placed on the record in this proceeding is the likelihood of their accurate reflection of the growth opportunities presented to LECs over the future period when the X-Factor will be in effect. Changes in rate structures that have occurred over the past decade have distorted the reliability of much of the historical data as a useful standard to measure relative output growth productivity for the near term. Since divestiture, the combination of jurisdictional separations changes and the implementation of interstate Subscriber Line Charges (SLCs) have dramatically decreased carrier interstate access costs. Together with implementation of equal access and the growth in interLATA toll competition, the result was to significantly stimulate the growth in access, and particularly interstate access usage.

⁶ Price Cap Order, at par. 107-112.

⁷ Reply Comments of Sprint Corporation in CC Docket 94-1, filed March 1, 1996, at 14-18.

Sprint contends that it is unlikely that the perceived disparity in productivity measures between interstate and intrastate will continue in the future. In light of recent changes brought about by the Telecommunications Act of 1996, the potential exists for opening the local markets to competition which could result in both lower prices and new products.⁸

Conversely, Sprint suggests that it is likely that LEC interstate productivity growth rates will decrease as a result of recent changes brought about by the Act. In the Access Reform Order,⁹ the Commission adopted various reforms to the existing rate structure for interstate access that are designed to move access charges, over time, to more economically efficient levels and rate structures. In particular, the Commission adopted changes to its rate structures for Common Line and Local Switching rate elements. In addition, the Transport Interconnection Charge, currently recovered on a per minute of use basis, will now be recovered on a per line basis if there continues to be such a charge. The Commission generally removed from minute-of-use access charges costs that are not incurred on a per-minute-of-use basis. The Commission concluded that these non-traffic sensitive costs that do not vary with the level of interstate usage should generally be recovered through flat-rated charges.

Given that minute growth has historically outstripped line growth, moving from a per minute of use measure of productivity to a per line measure will severely dampen real productivity output increases for the foreseeable future. For 1997, Sprint estimates that 62.26%

⁸ The Commission directed that intraLATA equal access be implemented by August 8, 1997. With the passing of the August 8th implementation date the potential exists for increased competition in the provision of intraLATA toll services. Second Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, released Aug. 8, 1996 (Second Report and Order).

⁹ Access Charge Reform, First Report and Order, CC Docket No. 96-262, FCC 97-158, released May 16, 1997 ("Access Reform Order")

of the interstate revenues for the Sprint LECs will be derived from services provided on a minute of use basis. However, Sprint's initial analysis indicates that as a result of the Access Reform Order, by the end of the year 2000 the Sprint LECs' interstate revenues that will be derived from services that are priced on a minute of use basis will be 35.31%. This number roughly corresponds to the intrastate percentage for revenues derived from minute of use services. Sprint anticipates that this dramatic decrease in per minute-of-use-derived revenues will significantly slow LEC interstate productivity growth.

III. APPLICATION OF THE NEW PRICE CAP FORMULA

AT&T also objects to the fact that the Commission only required the price cap LECs to adjust their PCIs to the level for the 1997-98 tariff year that would have been in effect had the Commission adopted the 6.5 percent X-Factor in time to be effective with the 1996 annual filing. AT&T asserts that the Commission acknowledges that its interim X-Factor adopted in 1995 understated LEC productivity growth. AT&T further argues that when it adopted the interim X-Factor, the Commission made clear that it was interim and that adjustments could be made.

AT&T fails, however, to recognize that the retroactive application of the factor just determined is an issue that is appropriately within the discretion of the Commission. Furthermore, AT&T fails to even acknowledge the equities associated with the significant delays that have occurred in the final resolution of this proceeding. Although the Commission did make the initial determinations in this proceeding interim, it readily acknowledges that it had intended to replace the interim X-Factor long before it was able to issue the Price Cap Order:

We had intended to replace the interim X-Factor before the 1996 annual access tariff filings, but were unable to meet that interim timetable as a result of the

demands required to meet numerous statutory deadlines established by the 1996 Act.¹⁰

Due to the monumental demands place upon the Commission with the enactment of the Telecommunications Act of 1996, the Commission was unable to meet the original timetable.

To avoid the significant disruptive effect that including the 1995 tariff year would have on LECs, the Commission determined to balance the interests of all parties to derive an equitable result. As the Commission noted:

Similar to our action in the LEC Price Cap Performance Review, we conclude that allowing all of the past two years of understated productivity to become permanently ingrained in LEC PCIs would not strike the proper balance between stockholder and ratepayer interests. At the same time we wish to limit harm to LEC productivity incentives that could result from the perception that or regulatory policies unnecessarily lack constancy.¹¹

Taking into consideration both the interim notice with the long period of uncertainty that had occurred, the Commission exercised its discretion and made the proper determination to balance the interests of all parties involved.

IV. Conclusion

Sprint supports the Commission's conclusions with respect to the use of total company data on the determination of a productivity factor and the time frame for the application of the

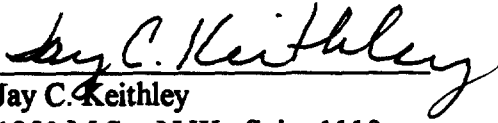
¹⁰ Price Cap Order, footnote 288.

¹¹ Price Cap Order par. 179.

new price cap formula to incumbent LEC PCIs. The arguments made by AT&T and Ad Hoc in this regard are not substantiated by the evidence of set forth in this proceeding.

Respectfully submitted,

SPRINT CORPORATION

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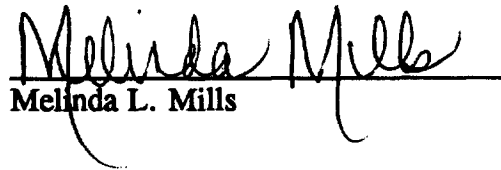
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Its Attorneys

August 18, 1997

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 18th day of August, 1997, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Opposition of Sprint Corporation" in the Matter of Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1 and Access Charge Reform, CC Docket No. 96-262, filed this date with the Acting Secretary, Federal Communications Commission, to the persons on the attached service list.


Melinda L. Mills

* Indicates Hand Delivery